UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID LEE,                            )
                    Plaintiff,        )          20 CV 2034
                                      )
             v.                       )
                                      )
DONALD TRUMP, President of            )
the United States,                    )
                    Defendant,        )
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PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S SECOND EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

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Although the defendant's two actions (the Chinese ban and the use of "Chinese virus") are both related to the COVID-19 pandemic and share the same motive, the two issues are rather different legally. The plaintiff respectfully requests the court to consider the two motions independently.

This document is only replying to the defendant's opposition on the plaintiff's second motion (the one requesting Chinese ban waivers). The plaintiff submitted the reply about the third motion to the pro se intake unit on May 24, 2020.

In order to keep this reply short and concise, it will only focus on the fundamental fallacy of the defendant's opposition. It will not be drawn into petty disputes like whether the plaintiff and the plaintiff's families suffer enough to be considered "irreparable". Also, in consideration of the plaintiff's day job and family commitments, the plaintiff has limited time and resources to review all the cases and proposed theories in the opposition. Hence the plaintiff respectfully requests the court to review and decide those issues.

In the opposition (Dkt. No. 18), the defendant used a verbose boilerplate anti-immigration argument, drawing parallel between this case and the Muslim ban case (Trump v. Hawaii, 138 S. Ct. 2392 (2018)). However, the defendant overlooked a key difference: **the stated purpose of the Muslim ban (national security) is somewhat plausible. But the stated purpose of the Chinese ban (public health) is completely baseless.**

Countries covered in the Muslim ban are mostly war-torn countries with a much higher level of insurgence, pirate, extremist, and/or terrorist activities than America. The ban might provide national security benefits to American people.

As for the current COVID-19 situation, currently there are only 83 active cases in China but over 1,000,000 active cases in the United States. Claiming that Chinese visitor would threaten

American public health is as ridiculous as claiming that a drop of clear water would turn a glass of ink black.

In early February, the Chinese ban might have helped postpone the COVID-19 epidemic in the United States, despite not motivated to do so. In March, most people were not sure if the epidemic was under control in China, and most people did not expect that the Trump administration would fail so miserably and there would be a full-blown outbreak in America. But now, anyone with any sense of decency would agree that the Chinese ban provides zero benefit to the American public health at this time.

Most of the defendant's arguments are invalid because of this key difference. In the defendant's opposition, Argument II.B and II.C.1 are invalid because the Chinese ban lacks benefit to American people and does not have any legitimate reason. Argument IV is also invalid because there would be no "great and irreversible repercussions".

In the contrary, the discrimination, dismissal, hatred, and the feeling of superiority against Chinese people are not only unhelpful to protect American public health, but also the reason why the COVID-19 epidemic in the US is so bad. When the disease was first reported in China, many people in Europe and America, including a top official of Italy (Exhibit J), believed that only people of the "yellow race" can contract the virus. Many others, including many generally not considered racist, and even some Chinese Americans, believed that COVID-19 outbreaks, like AIDS and Ebola, can only happen in third world countries like China because it has bad government, bad medical system, bad hygiene, or even bad culture. These false beliefs caused many people to be unprepared, and overlook the threat from Europe (Exhibit E). When Chinese government ordered strict quarantine and travel restrictions on January, many people were eager to criticize those policies. When scientists in China published discoveries about asymptomatic carriers and transmission by aerosol, and recommended everyone to wear surgical

masks, the CDC was downplaying all these discoveries, asked people not to wear any masks, but wash hands crazily like the virus is foodborne. Just 3 days ago, more than 4 months after Chinese government required everyone to wear masks in public, CDC finally admitted that the virus can't transmit through surface easily (Exhibits E and F). Although CDC and local governments have admitted most of their errors, American people have paid a dear price for the discrimination and arrogance. As all evidences show, virus does not discriminate. Being discriminative is only hurting American people, at least when dealing with the virus.

The Muslim ban case was agonizing because the judges had to choose the lesser of two evils. But in this case, the court only needs to choose between two evils and no evil. There is no doubt that the court should grant the second motion.

Dated: May 25, 2020

By: /s/ David Lee

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EXITBITS

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EXITBIT D: What Asian Nations Know About Squashing COVID-19

Source: CNN https://www.cnn.com/2020/05/02/opinions/us-can-learn-from-asia-sachs/index.html

Opinion by Jeffrey D. Sachs
Updated 10:32 AM ET, Sun May 3, 2020

Editor's Note: Jeffrey Sachs is a professor and director of the Center for Sustainable Development at Columbia University. The opinions expressed in this commentary are those of the author; view more opinion articles on CNN.

(CNN) The number of Americans who have died from Covid-19 now significantly exceeds the total US troop fatalities during the Vietnam War.

While the coronavirus continues to ravage the country, with confirmed cases exceeding 1 million and deaths rising by the day, some states are lifting stay at home orders in hopes of salvaging the economy. With so many lives at stake, it's time the United States looked to those countries in the Asia Pacific region that have successfully controlled the pandemic to figure out how to save ourselves and the economy.

Several places in the Asia-Pacific, including Australia, China, New Zealand, South Korea, Taiwan and Vietnam, have suppressed the estimated effective reproduction number -- the average number of people who will catch the disease from a single infected person -- to below 1, without the need for continued, widespread lockdowns.

They are now rapidly and successfully suppressing outbreaks of the disease by isolating those who are infected and their contacts who are likely to be infected.

It's as if there are two worlds.

The United States has had more than 66,000 deaths, or about 20 deaths per 100,000 people. The number of deaths per 100,000 people reported in Western European countries is also very high: Belgium, 67; France, 37; Italy, 47; Germany, 8; Spain, 53; and Sweden, 26.

Meanwhile, the reported rates in Asia and Oceania are considerably lower: Australia, 0.4; China, 0.3; New Zealand, 0.4; South Korea, 0.5; Taiwan, 0.03.

Despite the stark disparities, America seems blind to the strategies other countries have used to control the virus. How is it that one part of the world is succeeding, while the other part refuses to learn the lessons of success?

On Tuesday, The Wall Street Journal extolled the virtues of Germany's efforts in comparison with the United States, France, Italy, and Spain, without even a mention that Germany's mortality rate per million is itself more than 100 times higher than Taiwan and Hong Kong, and more than 10 times higher than in Australia, Japan, New Zealand and South Korea.

How have these countries succeeded to date?

Many have adopted nationwide public-health standards, using mobile technologies, professionalism of government, widespread use of face masks and hand sanitizers, and intensive public health services to isolate infected individuals or those likely to be infected.

Testing has played an important role, but has not been the be-all-and-end-all as is sometimes believed in the United States.

Vietnam has succeeded, for example, with contact tracing and an aggressive quarantine regime. When one person is confirmed positive, many of his or her close contacts -- even those without symptoms -- are isolated. As a result, Vietnam tested only a moderate number of people as a share of the population because it managed to contain outbreaks so effectively. Vietnam, with about 95 million people, has not reported a single Covid-19 death so far.

In New Zealand, the government is starting to ease lockdown restrictions as officials say they are now in a position to test and trace any new clusters of infection.

Here are the careful and precise words of New Zealand Prime Minister Jacinda Ardern. "There is no widespread undetected community transmission in New Zealand. We have won that battle. But we must remain vigilant if we are to keep it that way."

There are similar success stories across much of the region.

South Korea, which has dramatically broken the epidemic with aggressive testing, contact tracing and basic public health measures such as thermal monitoring, has also employed digital technology in the fight against Covid-19, according to a new report. South Korea uses a text alert system to keep the public informed, while various apps allow people to track new Covid-19 cases, make doctor's appointments or monitor hotspots to avoid.

The government also uses apps to monitor people in quarantine, through self-reported symptoms and location tracking. Despite the fact that these apps may raise privacy issues in the United States, the upshot is an economy that is open, albeit cautiously so, together with a suppression of new infections.

The US government has been utterly incapable of learning from these cases of success.

President Donald Trump is incompetent and his appointees at Health and Human Services, the US Centers for Disease Control and Prevention, and Transport Security Administration have failed to provide leadership. America First has put us first in deaths in the world, with tens of thousands of lives squandered as a result.

We can save ourselves and our economy, if we look to and learn from the achievements of other nations. And if the federal government continues to fail, as seems likely, our governors and mayors must step forward to do the job.

EXITBIT E: Governor Cuomo's COVID-19 Press Conference on May 22

Source: Governor Cuomo's press conference on May 22
https://www.youtube.com/watch?v=XdzMmK8y3xs

[Transcript from 10:08 to 12:02]

…

From Day 1 it started that this virus is coming from China. So everybody is looking to the West Coast, from the west. And it turned out the virus is coming from the east, came from Europe, and walk right through our airport. And nobody was screening, and no one was doing anything. And it was not in March, it's coming here January, February, and March. The virus was here much sooner than anybody knew.

…

Most recently, CDC says infected surfaces are not a major source of transmission. When we started, it was about infected surfaces and you can get it from infected surfaces. And that was a major problem. We have a very aggressive disinfecting campaign going on across the state. Public transit, etc. Not the CDC says that that's not a major source. It's airborne, it's droplet. If they're right, and the major transmission source is airborne, it takes you back to wear a mask.
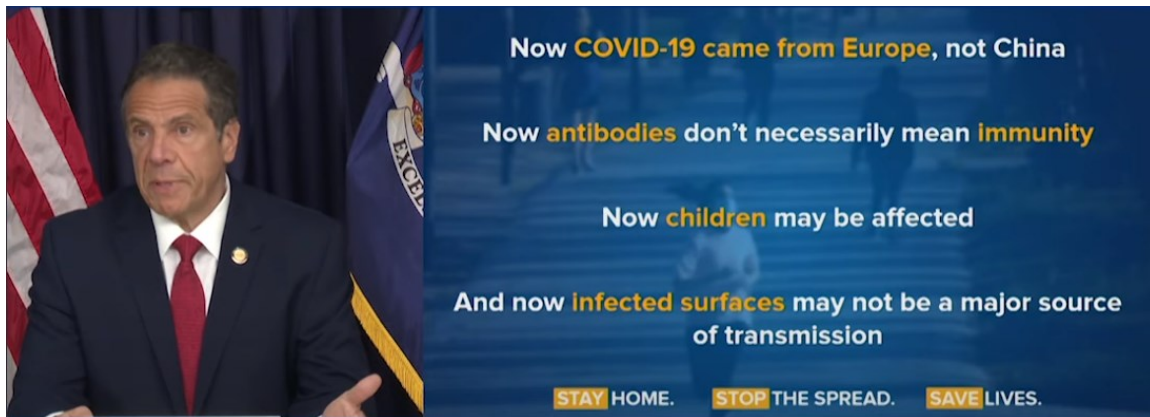
…

EXITBIT F: Governor Cuomo's COVID-19 Press Conference on May 20

Source: Governor Cuomo's press conference on May 20
https://www.youtube.com/watch?v=3qnhISwb0dM

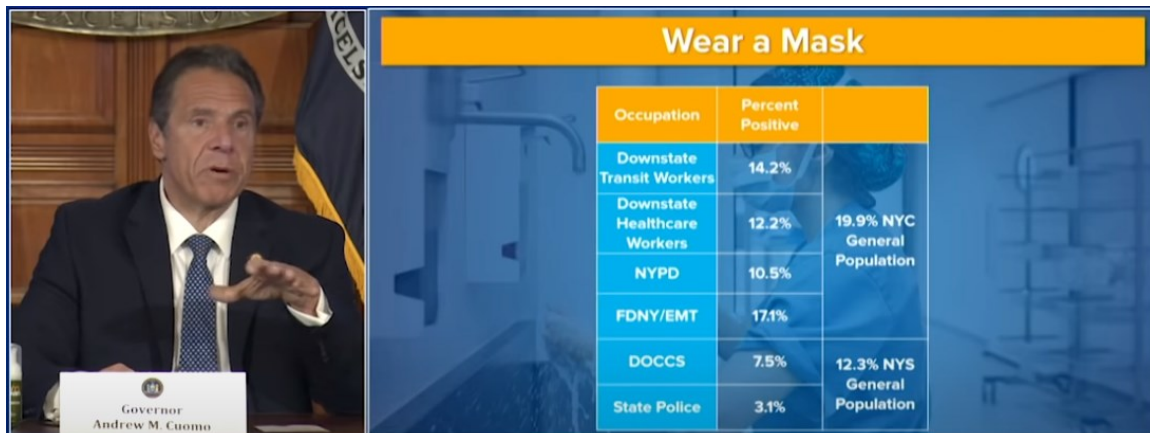[Transcript from 15:20 to 18:10]

…

It is amazing how effective that mask actually is. … How do front line workers have the lower infection rate than the general population. … They are wearing a mask. The mask works. Those surgical masks work. And it's in the data. … Remember all those pictures of people in China always wearing masks. Oh, I wonder why wear all those masks. They were right. The masks work.

…

EXITBIT G: Amid Ongoing COVID-19 Pandemic, Governor Cuomo Announces Results of Completed Antibody Testing Study of 15,000 People Showing 12.3 Percent of Population Has COVID-19 Antibodies

Source: Official press release of Government Cuomo from the official website of New York State Government https://www.governor.ny.gov/news/amid-ongoing-covid-19-pandemic-governor-cuomo-announces-results-completed-antibody-testing

MAY 2, 2020 Albany, NY

Amid the ongoing COVID-19 pandemic, Governor Andrew M. Cuomo today announced the results of the state's completed antibody testing study, showing 12.3 percent of the population have COVID-19 antibodies. The survey developed a baseline infection rate by testing 15,000 people at grocery stores and community centers across the state over the past two weeks. Of those tested, 11.5% of women tested positive and 13.1% of men tested positive. A regional breakdown of the results is below:

Region	Percent Positive
Capital District	2.2%
Central NY	1.9%
Finger Lakes	2.6%
Hudson Valley (Without Westchester/Rockland)	3%
Long Island	11.4%
Mohawk Valley	2.7%
North Country	1.2%
NYC	19.9%

Southern Tier	2.4%
Westchester/Rockland	13.8%
Western NY	6%

[VIDEO: Governor Cuomo Holds Briefing on COVID-19 Response] (Watch on https://www.youtube.com/watch?v=TOknuVwKc4A)

The Governor also announced that the state will distribute over seven million more cloth masks to vulnerable New Yorkers and essential workers across the state. The masks will be distributed as follows:

- 500,000 for NYCHA residents
- 500,000 for farm workers
- 1 million for vulnerable populations, including the mental health and developmental disabled communities
- 500,000 for homeless shelters
- 2 million for elderly New Yorkers and nursing homes
- 1 million for faith-based organizations and food banks
- 2 million for grocery stores, supermarkets and food delivery workers

While we're in uncharted waters it doesn't mean we proceed blindly, and the results of the 15,000 people tested in our antibody survey program - the largest survey in the nation - will inform our strategy moving forward
Governor Andrew M. Cuomo

The Governor also announced the state is distributing $25 million to food banks across the state through the Nourish New York Initiative. The Nourish New York initiative, announced earlier this week by Governor Cuomo, is working to quickly reroute New York's surplus agricultural products to the populations who need them most through New York's network of food banks. Funding will be distributed as follows:

- **New York City Region**: $11 million

- **Westchester Region**: $1 million

- **Long Island Region**: $1.6 million

- **Capital/Hudson Valley Region (includes portion of North Country and Mohawk Valley)**: $4.4 million

- **Central NY Region (includes portion of North Country and Mohawk Valley)**: $2.2 million

- **Southern Tier Region**: $1.1 million

- **Western New York Region**: $2.1 million

- **Finger Lakes Region (includes portion of Southern Tier)**: $1.7 million

"While we're in uncharted waters it doesn't mean we proceed blindly, and the results of the 15,000 people tested in our antibody survey program - the largest survey in the nation - will inform our strategy moving forward," **Governor Cuomo said**. "We're also going to undertake a full survey of antibody testing for transit workers, who have been on the front lines of this crisis. We've said thank you to our essential workers thousands of times but actions speak louder than words, and we want them to know that we're doing everything we can do to keep them safe."

Finally, the Governor confirmed 4,663 additional cases of novel coronavirus, bringing the statewide total to 312,977 confirmed cases in New York State. Of the 312,977 total individuals who tested positive for the virus, the geographic breakdown is as follows:

County	Total Positive	New Positive
Albany	1,238	34
Allegany	35	0
Broome	305	6
Cattaraugus	50	1
Cayuga	51	0
Chautauqua	35	0
Chemung	124	1
Chenango	99	0
Clinton	62	1
Columbia	205	3
Cortland	28	0
Delaware	61	0
Dutchess	3,049	47
Erie	3,598	117
Essex	28	0
Franklin	15	0

Fulton	79	4
Genesee	155	1
Greene	142	3
Hamilton	3	0
Herkimer	61	1
Jefferson	62	1
Lewis	9	0
Livingston	76	3
Madison	149	10
Monroe	1,534	56
Montgomery	54	0
Nassau	36,519	358
Niagara	457	17
NYC	172,354	2,664
Oneida	474	23
Onondaga	903	43
Ontario	92	1
Orange	8,910	159
Orleans	93	1
Oswego	66	2
Otsego	67	0
Putnam	1003	13
Rensselaer	311	13

Rockland	11,945	133
Saratoga	361	3
Schenectady	521	7
Schoharie	43	0
Schuyler	7	0
Seneca	42	1
St. Lawrence	176	0
Steuben	217	1
Suffolk	34,478	441
Sullivan	931	51
Tioga	90	0
Tompkins	128	0
Ulster	1,327	29
Warren	185	3
Washington	184	14
Wayne	73	2
Westchester	29,626	394
Wyoming	69	1
Yates	18	0

EXITBIT H: Latest Situation of COVID-19 Epidemic (in China) Up Until May 24, 24:00

Source: Official website of National Health Commission of the People's Republic of China

http://www.nhc.gov.cn/xcs/yqtb/202005/6dfa144edbb743b6898ff5f6a6206b3a.shtml

截至5月24日24时新型冠状病毒肺炎疫情最新情况

发布时间： 2020-05-25 来源: 卫生应急办公室

　　5月24日0—24时，31个省（自治区、直辖市）和新疆生产建设兵团报告新增确诊病例11例，均为境外输入病例（内蒙古10例，四川1例）；无新增死亡病例；无新增疑似病例。

　　当日新增治愈出院病例7例，解除医学观察的密切接触者461人，重症病例减少1例。

　　境外输入现有确诊病例46例（含重症病例1例），现有疑似病例5例。累计确诊病例1724例，累计治愈出院病例1678例，无死亡病例。

　　截至5月24日24时，据31个省（自治区、直辖市）和新疆生产建设兵团报告，现有确诊病例83例（其中重症病例7例），累计治愈出院病例78268例，累计死亡病例4634例，累计报告确诊病例82985例，现有疑似病例6例。累计追踪到密切接触者742506人，尚在医学观察的密切接触者5152人。

　　31个省（自治区、直辖市）和新疆生产建设兵团报告新增无症状感染者40例（境外输入2例）；当日无转为确诊病例；当日解除医学观察15例（境外输入2例）；尚在医学观察无症状感染者396例（境外输入28例）。

　　累计收到港澳台地区通报确诊病例1551例。其中，香港特别行政区1065例（出院1030例，死亡4例），澳门特别行政区45例（出院45例），台湾地区441例（出院414例，死亡7例）。

Translation

Latest Situation of COVID-19 Epidemic Up Until May 24, 24:00

Published time: 25 May, 2020 Source: Office of Health Emergency Response

On May 24th, from 00:00 to 24:00, 31 provinces (autonomous regions, direct-administered municipalities) and Xinjiang Production and Construction Corps reported 11 new confirmed cases, all of which were imported from abroad (10 cases in Inner Mongolia and 1 in Sichuan); no new death cases; no new suspected cases.

On the same day, 7 new cases were recovered and discharged, 461 close contacts were discharged from medical observation, and the number of severe cases was reduced by 1.

Among imported cases: there are 46 active cases (including 1 severe case), 5 existing suspected cases. The cumulative number of confirmed cases is 1724, the cumulative number of recovered cases is 1678. No death.

As of 24 May, according to 31 provinces (autonomous regions, direct-administered municipalities) and Xinjiang Production and Construction Corps reported that there are 83 confirmed cases (of which 7 were severe cases), the cumulative number of recovered cases is 78,268, the cumulative number of deaths is 4634, the cumulative number of confirmed cases is 82985, and 6 existing suspected cases were reported. The cumulative number of close contacts traced is 742,506, and 5,152 close contacts were still under medical observation.

31 provinces (autonomous regions, direct-administered municipalities) and Xinjiang Production and Construction Corps reported 40 new cases of asymptomatic infection (including 2 cases imported abroad); no asymptomatic infected patients became active cases on this day; 15 cases were discharged from medical observation on this day (including 2 cases imported abroad); and 396 cases of asymptomatic infections were still under medical observation (including 28 cases imported from abroad).

A total of 1551 confirmed cases have been reported in Hong Kong, Macao and Taiwan. Of these, 1065 cases (1030 discharges from hospital, 4 deaths) in the Hong Kong Special Administrative Region, 45 cases in the Macao Special Administrative Region (45 cases discharged from hospital) and 441 cases in Taiwan Region (414 discharges, 7 deaths).
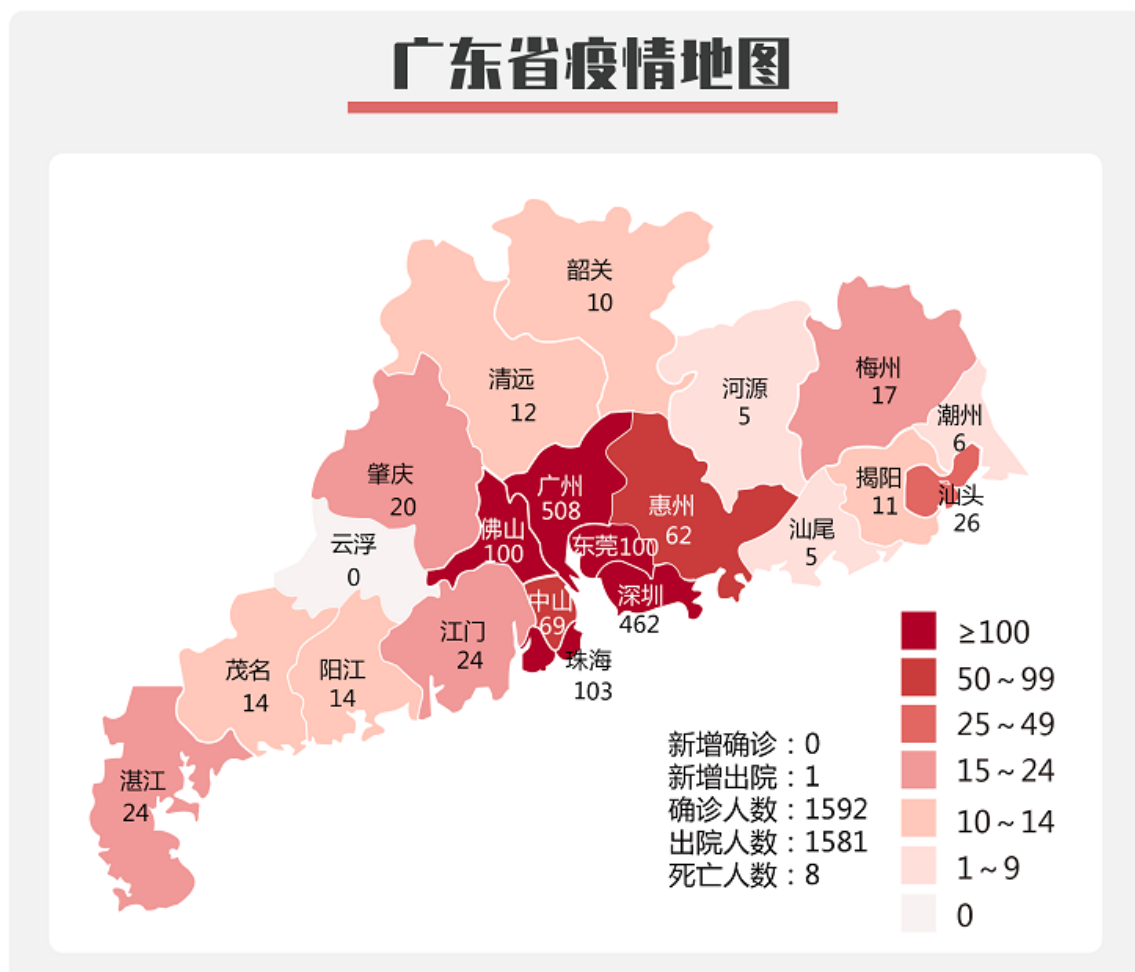
EXITBIT I: Situation of COVID-19 Epidemic in Guangdong Province on May 25, 2020

Source: Official website of Health Commission of Guangdong Province
http://wsjkw.gd.gov.cn/zwyw_yqxx/content/post_2999848.html

2020年5月25日广东省新冠肺炎疫情情况

时间：2020-05-25 08:03:45 来源：广东省卫生健康委

　　5月24日0-24时，全省无新增确诊病例，无新增无症状感染者。新增出院1例。
　　截至5月24日24时，全省累计报告新冠肺炎确诊病例1592例（境外输入197例）。目前仍在院3例。

截至2020年5月24日24时

地市	累计确诊	境外输入
广州	508	131
深圳	462	39
珠海	103	5
东莞	100	1
佛山	100	11
中山	69	2
惠州	62	0
汕头	26	1
湛江	24	2
江门	24	1
肇庆	20	1
梅州	17	1
茂名	14	0
阳江	14	0
清远	12	0
揭阳	11	1
韶关	10	0
潮州	6	1
汕尾	5	0
河源	5	0
云浮	0	0

广东省新冠肺炎防控指挥办   制图

Translation

Situation of COVID-19 Epidemic in Guangdong Province on May 25, 2020

Time: 2020-05-25 08:03:45 Source: Health Commission of Guangdong Province

On May 24, from 00:00 to 24:00, there was no new confirmed cases in the province, no new asymptomatic infection, 1 newly discharged.
    Up until May 24, 24:00, the province had reported a cumulative number of 1592 confirmed COVID-19 cases (including 197 cases imported from abroad). 3 cases are still in hospital.

[Picture]

Translator's note:

The picture contains the map showing cumulative confirmed cases in difference prefecture-level cities in Guangdong, and a table showing different prefecture-level cities in different rows. The first column is city names. The second column is the number of cumulative confirmed cases. The third column is the number of cases imported from abroad among the confirmed cases.

The statistics in the bottom of the map shows: new confirmed: 0, new discharged: 1, cumulative confirmed: 1592, discharged: 1581, deaths: 8.

Statistics of the cities in Teochew region: Shantou: 26 cumulative cases, including 1 imported from abroad; Chaozhou: 6 cumulative cases, including 1 imported from abroad; Jieyang: 11 cumulative cases, including 1 imported from abroad; Shanwei: 5 cumulative cases, no case imported from abroad.

EXITBIT J: Speech on Recent Racism by Japan's Deputy Prime Minister

Source: https://twitter.com/PeachTjapan2/status/1242308575742922753

ピーチ太郎2nd
@PeachTjapan2

【正直過ぎる麻生さん😅】

麻生大臣「2月末の会議でコロナの話が出たが欧州は無反応。1週間したらG7の電話会談を申し込んで🇮🇹が色々言う。『つい一週間前に隣の席で"何の関係もない。あれは黄色人種の病気で俺達の病気じゃない"と誰が言ったんだ。お前じゃないか』と言ったのがこの間の第一回の会議」

1:06 | 1.6M views

12:33 AM · Mar 24, 2020 · TweetDeck

31.1K Retweets   **78.8K** Likes

Translation

@PeachTjapan2

[Mr. Aso is too honest 😄]

Minister Aso said, "During a meeting at the end of February, I spoke about the coronavirus. But Europe did not have any reaction. After a week, in G7's telephone meeting, Italy said a lot of things. 'Just a week ago, you were sitting on the seat next to me and said, 'It has nothing to do with us. That's the disease of the yellow race, not our disease.' Who said that? It's you, right?' I said during the first meeting on the day."

[Video]

Translator's note:

The video is Aso Taro's talk in a Japanese congress meeting. The tweet is a viral tweet showing the video. After this tweet became viral in Japan, the rampant racist remark by Italy also became breaking news in other Asia countries, including Taiwan, Hong Kong, Singapore, and Mainland China.

I watched the video. The description in the tweet is an accurate summary of what Aso said in the first 2/3 of the video. In the remaining part of the video, he talked about the Spanish flu pandemic and the origin place of the virus doesn't matter.

Aso Taro is the current Deputy Prime Minister and Minister of Finance of Japan since December 2012. He previously served as Prime Minister of Japan from September 2008 to September 2009.

EXITBIT K: Declaration of Translations

My name is David Lee. I am the plaintiff of this case. I understand English, Chinese, and Japanese. Unless otherwise specified, all exhibits in Chinese and Japanese submitted by the plaintiff were translated to English by myself with my best effort.

Due to limitation in time, I may omit unimportant portions or use summary translation.

/s/ David Lee

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